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REMARKS

Upon receipt of this response, the Examiner is respectfully requested to contact the undersigned representative of the Applicant to arrange a telephone interview concerning the inventive merits of this application.

A check in the amount of \$100 dollars is enclosed to cover the official fee, on the small entity basis, for one (1) additional independent claims in excess of three (3) independent claims.

The Applicant thanks the Examiner for indicating that claim 20 is allowed and that while claims 11, 12 and 15 are objected to as being dependent upon a rejected base claim, claims 11, 12 and 15 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. In response to this indication, the Applicant amended claim 11 to be an independent claim. It is therefore the belief and position of the Applicant that claim 11 is now in allowable.

Next, claims 1, 2, 4, 8-10, 14 and 17 are rejected, under 35 U.S.C. § 102, as being anticipated in view of Coureau '073. The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

Coureau '073 teaches a display stand with stages. This display stand is made up of a number of units. A first unit 5 appears to be a portion of a container for holding soil 4. The second unit 6 is a reservoir for holding water, the second unit 6 has an outer wall 7 which together with the first unit 5 forms the soil container 4. The first and second units 5 and 6, when combined, form a single stacking unit 1. This single stacking unit 1 can then be combined with other stacking units 1 to form the display stand.

The wall 7 of the second unit 6, dividing the first and second units 5 and 6, has an aperture 17 through which a wick 18 of some sort extends. As seen in Fig. 1, the aperture is well above the maximum water level of the reservoir 4. The aperture is also above the soil level in the first unit 5. The wick 18 extends vertically upward from the bottom of first unit 5 through the aperture 17, along and then over the wall 7, then vertically back down to the bottom of the reservoir 4. With this design, the wick 18 essentially acts as a siphon to transfer the water from

the reservoir 4 to the soil. In order for the water to move from the reservoir 4 to the soil in the first unit 5, the water has to travel up the wick 18 then back down the wick 18 into the soil. According to the teachings of this reference, it is not possible for the aperture 17 to be lower than the water level, even if the reservoir is filled to its maximum capacity. These aspects of the design and placement of the aperture between the reservoir and the soil drastically affect the flow of water between the two and are distinctly different from the current application.

As claimed in amended claims 1 and 14 of this application, each single stackable unit 10 comprises a reservoir 22 and a growth medium container 14. As seen in Fig. 1, the wall 24 separating the reservoir 22 and the container 14 contains a plurality of openings 54. These openings 54 are located near the bottom of the reservoir 22 so that virtually all the fluid in the reservoir 22 is able to flow out through one of the openings 54 into the growing medium. With this design, substantially the entire volume of fluid within the reservoir 22 is distributed and utilized.

Further, as currently claimed, the capillary member 52' or plug 52 is aligned within the unit such that fluid flows substantially horizontally and radially from the reservoir 22 to the container 14. As taught in paragraph 59, this results in a more compact arrangement for the nested array.

In order to emphasize the above noted distinctions between the presently claimed invention and the applied art, the independent claims of this application now recite the features of

[a] stackable unit for automatically dispensing fluid to at least one growing medium container associated with the stackable unit, the stackable unit comprising: at least one growing medium container; a reservoir having an open top to facilitate filling thereof. . .the reservoir having at least one lateral dispensing opening, adjacent a bottom wall of the reservoir, for dispensing fluid from the reservoir into growing medium. . .the least one lateral dispensing opening supporting a capillary member which controls flow of fluid from the reservoir to the at least one growing medium container, for providing moisture thereto to facilitate growing of a plant, the fluid flowing substantially horizontally and radially through the capillary member.

Such features are believed to clearly and patentably distinguish the presently claimed invention from all of the art of record, including the applied art.

Claims 3, 6, 7, 13, 16 and 19 are then rejected, under 35 U.S.C. § 103, as being unpatentable over Coureau `073 while Claims 5 and 18 are rejected, under 35 U.S.C. § 103, as being unpatentable over Coureau `073 in view of Shaw `664. The Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the following remarks.

The Applicant acknowledges that the additional reference of Shaw `664 may arguably relate to the features indicated by the Examiner in the official action. Nevertheless, the Applicant respectfully submits that the base reference and the combination of the base reference with this additional art still fails to in any way teach, suggest or disclose the above distinguishing features of the presently claimed invention. For example, Shaw `664 teaches the raising of liquid from a reservoir to a growing medium in essentially the same manner as Coureau `073, the sole major difference being that in Coureau `073 the reservoir is alongside the growing medium while in Shaw `664 the reservoir is completely below the growing medium. As such, Shaw `664 essentially teaches or suggests no more than does Coureau `073, so that the present invention is distinguished over and from Shaw `664 and the combination of Coureau `073 and Shaw `664 for the same reasons that the present invention as recited in the claims is distinguished over and from Coureau `073.

As such, the Applicant respectfully requests that the Examiner reconsider the rejection of the claims under Coureau `073 in view of Shaw `664 and the allowance of the claims in view of the amendments discussed herein above.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejections should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejections or applicability of the

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Coureau `073 and Shaw `664 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



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